

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION**

CATHERYNNE KENDRICK,
ADC #708204

PLAINTIFF

v. No. 1:11CV00110 JLH-JTK

STEPHEN A. GILBERT, Sgt., McPherson Unit,
Arkansas Department of Correction, *et al.*

DEFENDANTS

ORDER

The Court has received proposed findings and recommendations from United States Magistrate Judge Jerome T. Kearney. After a review of those proposed findings and recommendations, and the timely objections received thereto, as well as a *de novo* review of the record, the Court adopts them in their entirety. Kendrick entitled her complaint “Petition under Administrative Procedural Act – State Remedy 5 USCA § 551,” but that act relates only to federal agencies, not to the Arkansas Department of Correction. Kendrick named eighteen officers and employees of the Arkansas Department of Correction as defendants, alleging that these defendants imposed discipline upon her in retaliation for using the grievance procedure. As relief, she requested, in part, compensatory and punitive damages. Hence, the magistrate judge properly characterized this action as one brought pursuant to 42 U.S.C. § 1983, even if Kendrick did not specifically cite that statutory section. Kendrick later filed a motion to redesignate this action as a habeas corpus proceeding under 28 U.S.C. § 2241, but the magistrate judge properly recommended that the motion be denied because plaintiff in this action named eighteen individuals as defendants and sought compensatory and punitive damages from them, which is not appropriate relief in a habeas corpus proceeding.

IT IS, THEREFORE, ORDERED that:

1. Plaintiff Kendrick's Motion to Proceed *In Forma Pauperis* (Doc. No. 5) is DENIED.

2. Plaintiff's Motion for Order to re-designate this case as a habeas action (Doc. No. 9)

is DENIED.

3. Should Plaintiff wish to continue this case, she must submit the statutory filing fee of \$350.00 to the Clerk, noting the above case style and number within ten (10) days of the date of this Order, together with a motion to reopen the case. Upon receipt of the motion and full payment, the case will be reopened.

4. Plaintiff's Complaint is DISMISSED without prejudice.

An appropriate Judgment shall accompany this Order.

IT IS SO ORDERED this 7th day of February, 2012.



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE